

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION

KYMBERLY HOBBS, ADMINISTRATOR  
OF THE ESTATE OF CHARLES JAMES GIVENS,  
DECEASED

PLAINTIFF

v. CASE NO. 1:23-CV-3

ANTHONY RAYMOND KELLY

DEFENDANTS

AND

GREGORY SCOTT PLUMMER

AND

JOSHUA CALEB JACKSON

AND

WILLIAM ZACHARY MONTGOMERY

AND

SAMUEL DALE OSBORNE

**MOTION TO DISMISS**

COMES NOW, the Defendant Samuel Dale Osborne, by and through counsel, and moves the Court to dismiss Plaintiff's Fourth and Fifth claims against Defendant Osborne for Gross Negligence (Count IV) and Willful and Wanton Negligence (Count V) pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

The nature and grounds for Defendant Osborne's motion are more particularly set forth in his attached brief in support of his motion to dismiss.

WHEREFORE, Defendant Osborne requests that the Court dismiss counts IV and V against him.

Respectfully Submitted,  
Samuel Osborne

/s/Jeremy B. O'Quinn/s/  
Jeremy B. O'Quinn  
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**CERTIFICATE OF SERVICE**

I, Jeremy B. O'Quinn, do hereby certify that I have electronically filed the foregoing  
**Motion to Dismiss** with the Clerk of the Court using the CM/ECF system which will send  
notification of such filing to all parties of record on **March 16<sup>th</sup>, 2023**

/s/Jeremy B. O'Quinn/s/  
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